

Remarks

In the Office Action, the Examiner noted that claims 1-8 and 10-31 are rejected. By this amendment, claim 1 has been amended and claim 32 is a new claim. Thus, claims 1-8 and 10-32 are pending in the application with claim 1 being the sole independent claim, and are presented for reconsideration. These changes are believed not to introduce new matter and their entry is respectfully requested. The Examiner's rejections are traversed below.

Rejection under 35 U.S.C. § 102(b)

The Examiner continued the rejection of claims 1-4 under 35 U.S.C. §102(b) as anticipated by *Johansson* (WO 91/19856), wherein the Examiner contends that every feature of the invention as set forth in claims 1-4 is disclosed in the *Johansson* device. The Examiner further notes that the previous amendment to claim 1, made in Applicant's response dated August 1, 2001, does not constitute a limitation of the device as claimed.

In response, Applicant has amended claim 1 to explicitly limit the device to having a separate and distinct element for a "means for supporting the weight of the vehicle to support said top point a fixed distance above said bottom". Applicant respectfully asserts that this new language includes the proper limiting language which distinguishes Applicant's device from *Johansson's*. This restrictive language requires Applicant's device to have a block of a cell that withstands the weight of a passing vehicle such the block does not collapse under the weight of the vehicle. The top point of the cell is maintained a "fixed distance" above the bottom of the cell, thereby requiring that the block (with the top point) does not collapse.

As discussed in Applicant's previous response, dated August 1, 2001, *Johansson* relates to a speed restriction device constructed from a number of interconnected profile bodies 1. See *Johansson*, page 2, line 27. Each profile body 1 consists of a piece 2 of arched sheet metal which is mounted in two elongate feet 3 and 4. See *Johansson*, page 2, lines 28-29. The profile bodies 1 are hingedly interconnected by means of chain links 10 which are screwed into the end walls 8 with

the aid of threaded bolts 11 and nuts 12. *See Johansson*, page 3, lines 1-3; page 5, line 5. The road vehicle restriction device is comparatively light and may easily be lifted by one or a couple of workers and be transported to the next road section. *See Johansson*, page 3, lines 33-35.

The purpose of the *Johansson* device is to ensure that a driver passing over the device at too high of a speed is made aware that he must slow down immediately. The device does not actually slow down the vehicle. The device accomplishes this function of warning the driver by having each body of the device made of an arched sheet of metal such that upon being impacted by a passing vehicle, the sheet of metal decompresses and makes a "heavy sound bang." *See Johansson*, page 2, line 11. It is this combination of a "thump and the sound of a heavy blow" that immediately notifies the driver that he must reduce his speed. *See Johansson*, page 3, lines 19-22. In essence, *Johansson* only teaches a device that collapses upon impact of a vehicle in order to make a large "bang" noise to alert the driver of the vehicle to slow down. *Johansson* does not teach a device that holds its shape by not collapsing and actually slows down a passing vehicle.

As stated by the Federal Circuit:

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claim invention, arranged as in the claim.

Lindermann Maschinenfabrik GMBH v. American Hoist and Derrick Co., 221 USPQ 481, 485 (Fed.Cir. 1984). Applying this standard to the instant application, Applicant respectfully submits that amended claim 1 is patentably distinguished over *Johansson* because Applicant's device is explicitly limited to a device that supports the weight of a passing vehicle and does not collapse thereby making a large "bang" noise, whereas in *Johansson*, these are very important elements of the device. Accordingly, Applicant further respectfully requests the Examiner withdraw this rejection, and allow claim 1 to pass to issuance.

Claims 2-4 depend, directly or indirectly, from independent claim 1. Therefore, claims 2-4 include the claim element of "a means for supporting the weight of the vehicle to support said top

point a fixed distance above said bottom". As previously discussed, *Johansson* does not teach or suggest this claim element. Therefore, Applicant respectfully submits that claims 2-4 are also patentably distinguished over *Johansson*. Withdrawal of the rejection of these claims is respectfully requested, thereby allowing claims 2-4 to pass to issuance.

Rejection under 35 U.S.C. §103(a)

Claims 5-8 and 10-31 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Johansson*, either alone or in combination with various other patents. Specifically, Claims 5-8 and 21-22 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Johansson*. Claim 10 is rejected under 35 U.S.C. §103(a) as being unpatentable over *Johansson* in view of *Jensen*. Claims 11-13 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Johansson* in view of *Alghunaim*. Claims 14, 15, and 26 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Johansson* in view of *Chen*. Claims 16 and 27 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Johansson* in view of *Gibson*. Claims 17 and 21 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Johansson* in view of *Inaba*. Claims 18-20, 29, and 31 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Johansson* in view of *Griswold*. Claims 23 and 24 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Johansson* in view of *Pricone*. Claim 25 is rejected under 35 U.S.C. §103(a) as being unpatentable over *Johansson* in view of *Narron*. Claim 30 is rejected under 35 U.S.C. §103(a) as being unpatentable over *Johansson* in view of *Griswold*, and further in view of *Gibson*.

Regarding claim 1, Applicant repeats the discussion outlined above wherein Applicant has amended claim 1 to explicitly limit the device to having an element for a "means for supporting the weight of the vehicle to support said top point a fixed distance above said bottom". Applicant respectfully asserts that this new language includes the proper limiting language which distinguishes Applicant's device from *Johansson*'s. This restrictive language requires Applicant's device to have a block of a cell that withstands the weight of a passing vehicle such that the block does not collapse

under the weight of the vehicle. The top point of the cell is maintained a "fixed distance" above the bottom of the cell, thereby requiring that the block (with the top point) does not collapse. Therefore, Applicant's device is truly a portable speed bump that causes a vehicle to slow down upon passing over the device.

In sharp contrast to Applicant's device, Applicant respectfully draws the Examiner's attention to the fact that the *Johannson* device teaches away from Applicant's device. *Johannson* teaches a device intended only to warn a driver of an upcoming speed restriction on the roadway. The device itself is not a speed bump, or speed restriction, device. See *Johannson*, page 2, lines 1-12 ("...to signs warning drivers of a forthcoming heavy speed restriction...", and "...to ensure that a driver passing the device at too high speeds is made aware ... by ... a heavy sound bang, ..."). When a driver passes over the *Johannson* device, the device collapses under the weight of the vehicle and makes a loud bang sound to signal the driver of an upcoming speed restriction device. The device does not provide a "bump" or impediment on the roadway for slowing down the vehicle.

In operation, the *Johannson* device is intended to be used in conjunction with, and not as a substitute for, Applicant's device. The *Johannson* device would be positioned prior to Applicant's device on a roadway such that a driver and vehicle would encounter the *Johansson* device first. Therefore, when a vehicle approaches the two devices, the *Johannson* device would "warn" the driver of the vehicle that there is a speed restriction device - Applicant's portable speed bump - up ahead in the roadway and that the driver should slow down. Then, after driving an appropriate distance which allows the driver enough time and distance to slow down, the driver and vehicle would encounter and pass over Applicant's portable speed bump.

Accordingly, Applicant respectfully contends that the present invention is not obvious in light of the *Johannson* device, thereby making claim 1 patentably distinct. There is nothing in the *Johansson* patent to teach, disclose, or suggest the use of the *Johansson* device for actually slowing down a vehicle - its sole purpose and only embodiment is for producing a loud bang to warn a driver of something up ahead on the roadway. Applicant respectfully requests the Examiner to withdraw any rejection of claim 1 for obviousness in light of the *Johansson* device.

Furthermore, it is well established in the patent law "that allowance of a parent or base claim as patentable normally results in allowance of a claim dependent upon that claim." *See DONALD S. CHISUM, CHISUM ON PATENTS § 7.04[2]; U.S. v. Telectronics, Inc. , 658 F. Supp. 579, 591, 3 USPQ2d 1571, 1580 (D. Colo. 1987), aff'd in part and rev'd in part, 857 F.2d 778, 8 USPQ2d 1217 (Fed. Cir. 1988), cert. denied, 109 S. Ct. 1954 (1989)*("Since it would not have been obvious to have made the invention defined in claim 1, ... it would not have been obvious to make the inventions defined in dependent claims 3, 4 and 5."); *In re Fine, 837 F.2d 1071, 1076, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988)*("Dependent claims are nonobvious under section 103 if the independent claims from which they depend are nonobvious."). Therefore, all of the claims depending from independent claim 1 are patentably distinct over the cited references. Based on the foregoing, Applicant respectfully submits that claims 5-8 and 10-32 are nonobvious. Applicant respectfully contends that it has rendered the Examiner's rejection moot, thereby placing dependent claims 5-8 and 10-32 in proper condition for allowance.

Conclusion

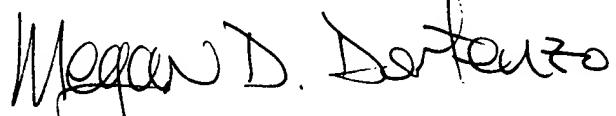
All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Applicant: Blair et al.
Appl. No. 09/545,017

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

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